United Nations CCPR/C/SLE/CO/1

International Covenant on Civil and Political Rights

Distr.: General
17 April 2014

Original: English

Human Rights Committee

Concluding observations on the initial report of Sierra Leone*

1. The Committee considered the initial report submitted by Sierra Leone (CCPR/C/SLE/1) at its 3040th and 3041st meetings (CCPR/C/SR.3040 and 3041), held on 11 and 12 March 2014. At its 3060th meeting (CCPR/C/SR.3060), held on 25 March 2014, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report of Sierra Leone, which was long overdue, and the information presented therein. It expresses appreciation for the opportunity to engage in dialogue with the State party's delegation on the measures taken by the State party to implement the provisions of the Covenant since its entry into force in the State party.

3. The Committee regrets the late submission of the State party's written replies (CCPR/SLE/Q/1/Add.1) to the list of issues, which was received on the first day of the dialogue. While it appreciates the efforts made by the delegation to provide answers to its questions, the Committee regrets that there was no representation from the capital and that the delegation was not in a position to provide full information on the current situation of civil and political rights in Sierra Leone.

B. Positive aspects

4. The Committee welcomes the following legislative and institutional steps taken by the State party since the entry into force of the Covenant in 1996:

(a) Adoption of the Anti-Human Trafficking Act, in 2005;

(b) Adoption of the Child Rights Act, in 2007;

(c) Adoption of the Domestic Violence Act, in 2007;

(d) Adoption of the Sexual Offences Act, in 2012;

* Adopted by the Committee at its 110th session (10–28 March 2014).

GE.14-42613

1442613

Please recycle

(e) Enactment of the Legal Aid Act, in 2012;

(f) Introduction of free health care for lactating mothers and young children, in 2010.

5. The Committee welcomes the ratification by the State party of the following international instruments:

(a) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2001;

(b) The Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict, and on the sale of children, child prostitution and child pornography in 2011;

(c) The Convention on the Rights of Persons with Disabilities in 2010.

C. Principal matters of concern and recommendations

National Human Rights Commission

6. While noting the steps taken by the State party to ensure that the Human Rights Commission of Sierra Leone (HRCSL) complies with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), the Committee is concerned that the HRCSL has insufficient resources to fully execute its mandate. The Committee regrets the reported lack of independence of the HRCSL and that its recommendations are not adequately taken into account by State authorities (art. 2).

The State party should take steps to strengthen the de facto independence of the HRCSL and ensure that its recommendations are adequately taken into account by State authorities, in line with the Paris Principles (General Assembly resolution 48/134, annex). At the same time, the HRCSL should be provided with the necessary financial and human resources to be able to carry out its mandate effectively.

Applicability of the Covenant in domestic courts

7. The Committee notes with concern that the rights protected by the Covenant have not been fully integrated into domestic law and that the Covenant has not been publicized widely enough to be readily invoked before the courts and authorities of the State party (art. 2).

The State party should enact legislation implementing all rights under the Covenant that are not already protected under domestic law. In the meantime, the State party should increase its efforts to raise awareness of the Covenant among judges, lawyers and prosecutors to ensure that its provisions are taken into account by both national and traditional courts. In this regard, the State party should take effective measures to widely disseminate the Covenant to the public. It should also consider acceding to the Optional Protocol to the International Covenant on Civil and Political Rights on communications under the complaints procedure.

Reparations for human rights violations

8. In view of the gravity and scale of the human rights violations that occurred during the civil war and the recommendations of the Truth and Reconciliation Commission (TRC), the Committee regrets that the Sierra Leone Reparations Programme, established in 2008, does not fully guarantee all aspects of the right to adequate reparation, including full reintegration of child soldiers and psychological treatment for victims of sexual violence, and that, thus far, a significant number of victims has not received any reparations. The Committee notes with concern that the War Victims' Trust Fund faces serious funding

constraints. It is also concerned by reports that the National Commission on Social Action had difficulties registering victims living in remote and rural areas and a great number of victims were not registered and therefore do not qualify as beneficiaries (arts. 2, 6 and 7).

The State party should include in the Sierra Leone Reparations Programme all measures that are consistent with the right to reparation, such as rehabilitation measures, fair and adequate compensation and access to social programmes. It should also ensure that the Programme is provided with the necessary resources to carry out its functions throughout the country. The State party should continue its efforts to ensure that all victims in its territory are registered and receive appropriate reparation.

Legislative framework

9. The Committee welcomes the current Constitutional review process, which will provide the State party with opportunities to incorporate the rights enshrined in the Covenant into the new Constitution, but it is concerned by the reported lack of funds devoted to the review process, the lack of civil society participation and the slow pace of the review. The Committee is particularly concerned at discriminatory provisions against women in the existing Constitution, in particular article 27 (4) (d) (arts. 2, 3 and 26).

The State party should provide the Constitutional review process with adequate funding and strengthen its efforts to expedite the revision of the Constitution in order to repeal or amend discriminatory provisions against women that are inconsistent with the Covenant and to incorporate all the rights enshrined in the Covenant. The State party should pay particular attention to ensuring the full participation of civil society in the ongoing review process.

Non-discrimination and equality between men and women

10. While welcoming the adoption of the National Action Plan for the full implementation of Security Council resolutions 1325 (2000) and 1820 (2008), the Committee notes with concern that women remain underrepresented in both the public and private sectors, particularly in decision-making positions. The Committee further expresses its concern at the persistence of deep-rooted and negative patriarchal stereotypes regarding the roles of women and men in the family and in society at large. The Committee is also concerned at the discriminatory statutory provisions against women regarding the acquisition and transmission of nationality with respect to children who are born outside of the State party (arts. 2, 3 and 26).

The State party should enhance its efforts to eliminate existing patriarchal and gender stereotypes on the roles and responsibilities of women and men in the family and in society by, inter alia, adopting programmes that seek to raise awareness in society of gender equality. The State party should strengthen its efforts to increase the participation of women in the public and private sectors. The State party should take immediate measures to ensure equal rights for women and men to acquire and transfer nationality.

Discrimination against lesbian, gay, bisexual and transgender (LGBT) persons

11. The Committee is concerned that the State party lacks any constitutional or statutory provision expressly prohibiting discrimination on the grounds of sexual orientation or gender identity, and that same sex relationships between consenting adults are criminalized by law. The Committee notes with concern the prevalence of stereotypes and prejudices against lesbian, gay, bisexual and transgender (LGBT) persons and is particularly concerned about reported acts of violence against LGBT persons (arts. 2 and 26).

The State party should review its Constitution and legislation to ensure that discrimination on the grounds of sexual orientation and gender identity is prohibited, including by decriminalizing sexual relations between consenting adults of the same sex, in order to bring its legislation into line with the Covenant. The State party should also take the necessary steps to put an end to the social stigmatization of homosexuality and send a clear message that it does not tolerate any form of harassment, discrimination or violence against persons based on their sexual orientation or gender identity.

Harmful traditional practices

12. The Committee is concerned by the continuing reports of harmful traditional practices, especially female genital mutilation. The Committee welcomes the Child Rights Act (2007), which criminalizes the commission of some harmful traditional practices, but notes with serious concern the rejection of a proposed provision to criminalize female genital mutilation during the adoption of the Child Rights Act. The Committee regrets that impunity for perpetrators of this unlawful and harmful practice still prevails (arts. 2, 3, 7 and 26).

The State party should explicitly prohibit female genital mutilation. Furthermore, the State party should make efforts to prevent and eradicate harmful traditional practices, including female genital mutilation, by strengthening its awareness-raising and education programmes in consultation with women's organizations and traditional leaders. In this regard, the national-level team established to develop a common perception on the issue of female genital mutilation should ensure that communities where the practice is widespread are targeted in order to bring about a change in mindset.

Early marriage

13. While noting that the Child Rights Act of 2007 establishes the age of marriage at 18 years, the Committee notes with concern that the Registration of Customary Marriages and Divorce Act allows child marriage with parental consent. The Committee is concerned at the persistence of early marriages, especially in rural areas, and the lack of sanctions on those responsible (arts. 3, 23 and 24).

The State party should review the Registration of Customary Marriages and Divorce Act in order to bring it into line with the Child Rights Act of 2007 and ensure the strict application of its legislation banning early marriages. It should carry out campaigns to publicize the legislation and inform girls, their parents and community leaders of the harmful effects of early marriage.

Abortion, adolescent pregnancy and maternal mortality

14. The Committee notes with interest the Abortion Bill of 2012, but expresses its concern at the current general criminalization of abortion, which may oblige pregnant women to seek clandestine abortions that endanger their lives and health. The Committee is also concerned at the persistently high incidence of adolescent pregnancy and maternal mortality, despite the State party's prevention efforts (arts. 6 and 17).

The State party should accelerate the adoption of a bill that includes provision for exceptions to the general prohibition of abortion for therapeutic reasons and in cases of pregnancy resulting from rape or incest. The State party should ensure that reproductive health services are accessible for all women and adolescents. Furthermore, the State party should increase education and awareness-raising programmes, both formal (at schools and colleges) and informal (in the mass media), on the importance of using contraceptives and the right to reproductive health.

Violence against women

15. While welcoming the measures taken by the State party to combat gender-based violence, the Committee notes with concern the continuing reports of violence against women and the lenient treatment of such crimes by the police. The Committee notes with interest the establishment of the extraordinary court sittings known as "Saturday courts" and the work of the Family Support Units, but regrets the failure on the part of the authorities to ensure prompt and systematic prosecution of perpetrators. The Committee is particularly concerned about the lack of free medical examination after rape, the automatic closing of cases following the withdrawal of complaints by victims of domestic violence, and the limited access to legal aid and shelter and rehabilitation services for victims of sexual and domestic violence (arts. 3 and 7).

The State party should adopt a comprehensive approach to preventing and addressing gender-based violence in all its forms and manifestations. It should strengthen the Family Support Units, legal aid facilities and prosecutorial staff, and conduct awareness-raising campaigns on the negative effects of domestic violence and inform women of their rights and of existing mechanisms for protection. It should also strengthen and institutionalize a training course with a gender perspective, which should be mandatory for all legal and law enforcement officials and health service personnel, in order to ensure that they are able to respond effectively to all forms of violence against women. The State party should further ensure that cases of domestic violence and spousal rape are thoroughly investigated; victims are entitled to free medical examination after sexual abuse; perpetrators are prosecuted and, if convicted, punished with appropriate sanctions; and victims have access to effective remedies and means of protection, including an adequate number of shelters in all parts of the country.

Prohibition of torture and ill-treatment

16. The Committee is concerned that, although torture is prohibited in the Constitution, the State party has not adopted criminal legislation that defines and criminalizes torture explicitly. The Committee regrets the continued reports of torture and ill-treatment of detainees by law enforcement personnel, and notes with concern the information provided by the State party in its initial report that "at the present, there are no official complaints of torture." It regrets the lack of concrete measures by the State party to thoroughly investigate and prosecute alleged cases of torture and cruel, inhuman or degrading treatment and ill-treatment by law enforcement officials and the delays in establishing the Independent Police Complaints Board (arts. 7 and 10).

The State party should adopt in its legislation a definition of torture that fully complies with articles 1 and 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and with article 7 of the International Covenant on Civil and Political Rights. It should ensure that law enforcement personnel receive training on the investigation of torture and ill-treatment by integrating the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1999 (the Istanbul Protocol) in all training programmes for law enforcement officials. The State party should ensure that allegations of torture and ill-treatment are effectively investigated, alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and victims are adequately compensated.

Amnesty laws

17. The Committee regrets that the blanket amnesty provision contained in the 1999 Lomé Peace Accord continue to impede the investigation of grave human rights violations

that occurred in the past. The Committee also notes with concern the recent case of Ibrahim Baldeh Bah, a Senegalese national, who was facing private criminal prosecution in Sierra Leone, including for charges of torture, and who was controversially expelled from the country by a presidential order before he could be brought before the court (arts. 2, 6 and 7).

The State party should ensure that the amnesty provision is not applied to the most serious human rights violations that amount to crimes against humanity or war crimes. It should ensure that such human rights violations are thoroughly investigated, their perpetrators held accountable and that adequate reparation is made to the victims and their families.

Abolition of death penalty

18. While welcoming the continued moratorium on the death penalty and the commitment expressed by the State party's delegation to abolish it in law, the Committee regrets the slow progress of the process to abolish the death penalty and remove the provision from the State party's Constitution (art. 6).

The State party should expedite its efforts to abolish the death penalty and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, in line with the information provided about the State party's commitment to do so, and the occasion of the 25th anniversary of the Protocol.

Corporal punishment

19. While taking note of the fact that the Child Rights Act (2007) criminalizes and punishes torture and ill-treatment of children, the Committee expresses concern about the continuing practice of corporal punishment in all settings, and that it is not explicitly prohibited by law (arts. 7 and 24).

The State party should take practical steps, including through legislative measures where appropriate, to put an end to corporal punishment in all settings. It should encourage non-violent forms of discipline as alternatives to corporal punishment, and should conduct public information campaigns to raise awareness about its harmful effects.

Pretrial and arbitrary detention

20. While acknowledging progress made, the Committee expresses concern at reports of arbitrary detention, lengthy pretrial detention (including detention during trial) and the unpredictable and, at times, overly restrictive exercise of power over the granting of bail. The Committee is concerned about the high number of persons held in pretrial detention, including juveniles, and the fact that pretrial detainees are not separated from convicted prisoners (arts. 9, 10 and 14).

The State party should take appropriate measures to ensure that no one under its jurisdiction is subject to arbitrary arrest or detention and that detained persons enjoy all legal guarantees, in compliance with articles 9 and 14 of the Covenant. The State party should also encourage the implementation of alternatives to detention by courts, taking into account the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), and take urgent measures regarding the situation of inmates who have been in pretrial detention for many years. It should further take appropriate action to ensure that convicted persons are not detained together with pretrial detainees.

Conditions of detention

21. While welcoming the steps taken by the State party to improve conditions in prisons, including juvenile detention centres, the Committee is concerned about overcrowding in detention centres, the poor conditions in detention centres, harsh disciplinary measures and the absence of oversight mechanisms to monitor places of detention. The Committee is also concerned at reports that women incarcerated in detention facilities have been attacked by male guards, the lack of separation between juvenile and adult offenders and the possibility of life imprisonment for juveniles (arts. 9, 10 and 14).

The State party should strengthen its efforts to improve the living conditions and treatment of detainees and address overcrowding in detention centres in line with the Standard Minimum Rules for the Treatment of Prisoners. It should develop alternatives to incarceration for those charged and convicted for light offences and encourage the release of suspects on bail. The State party should also pass a new Correctional Bill, prohibiting harsh disciplinary measures such as lashes, food manipulation and prolonged solitary confinement, and establish a confidential mechanism for receiving and processing complaints lodged by detainees. The State party should ensure that women prisoners are protected from male guards and that the principle of separation of juvenile detainees from adults in detention facilities is respected. It should also ensure that no juvenile is sentenced to life imprisonment without parole, and adopt all appropriate measures to review the situation of persons already serving such sentences.

Reform of the justice sector

22. While welcoming the State party's efforts to ensure access to justice within the State party, the Committee is concerned that limitations still exist. The Committee is particularly concerned about the lack of judicial independence, allegations of corruption, lengthy delays in court hearings and lack of due process guarantees (arts. 2 and 14).

The State party should strengthen its efforts to enhance judicial capacity, including removal of all unnecessary obstacles, in order to guarantee equal access to justice. It should also take all necessary measures to improve access to legal representation and strengthen the independence of the judiciary.

Refugees

23. The Committee welcomes the establishment of the Refugees Protection Act 2007 that has designated three administrative bodies to address refugee issues; however, the Committee is concerned that the lack of funding to these bodies will result in it being an unsustainable solution (arts. 7 and 15).

The State party should ensure that the three administrative bodies, namely, the National Refugee Authority and its Secretariat, the National Commission for Social Action and the Refugee Status Appeal Board, receive adequate funding to support their sustainability.

Trafficking

24. While appreciating the State party's efforts to enforce the Anti-Human Trafficking Act (2005) and the establishment of the Office of National Security to coordinate the monitoring of human trafficking, the Committee is concerned about the persistence of the phenomenon of trafficking in persons in Sierra Leone. The Committee regrets the lack of specific information on prosecutions and convictions of traffickers (art. 8)

The State party should continue its efforts to provide training to law enforcement officials and border patrol, including personnel of the Office of National Security, on applying the Anti-Human Trafficking Act. It should increase efforts aimed at

ensuring that all perpetrators of human trafficking are brought to justice and that victims are adequately compensated.

25. The State party should widely disseminate the Covenant, the text of its initial report, the written replies to the list of issues drawn up by the Committee, and the present concluding observations among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public.

26. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 14, 16 and 20 above.

27. The Committee requests the State party to provide in its next periodic report, due to be submitted on 28 March 2017, specific, up-to-date information on the implementation of all its recommendations and on the Covenant as a whole. The Committee also requests the State party, when preparing its next periodic report, to broadly consult with civil society and non-governmental organizations operating in the country.